



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
 Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 15-037	Contact	Steven Robertson, 218 730 5295	
Application Type	Vacation of Street Right of Way	Planning Commission Date	April 14/May 12, 2015	
Deadline for Action	Application Date	March 3, 2015	60 Days	May 2, 2015
	Date Extension Letter Mailed	April 2, 2015	120 Days	July 1, 2015
Location of Subject	West 2nd Street between 39th and 40th Avenues West			
Applicant	RMN, LLP	Contact		
Agent	Roy J. Christensen	Contact	218 722 6331, rchristensen@duluthlaw.com	
Legal Description	See attached			
Site Visit Date	April 4, 2015	Sign Notice Date	March 25, 2015	
Neighbor Letter Date	March 30, 2015	Number of Letters Sent	47	

Proposal

This is a revised staff report. The applicant attended the April 14, 2015, PC Meeting with a proposal to vacate the entire right of way of 2nd Street between 39th and 40th Avenue West and retain an underlying utility easement for the City. The item was tabled by the Planning commission. The applicant has submitted a revised request asking for a vacation of 2nd Street, but leaving 25 feet. This would be sufficiently wide to still allow for the public to use as an alley (it would probably retain the name of West 2nd Street, however). The applicant would also issue a quit claim deed to help "straighten" the driving surface.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-B	Parking and limited local traffic	Neighborhood Commercial
North	MU-B	Commercial/light industrial	Neighborhood Commercial
South	MU-B	Commercial/light industrial	Neighborhood Commercial, General Mixed Use
East	MU-B, R-1	Light industrial, residential	Neighborhood Commercial, General Mixed Use
West	MU-B	Commercial (bank)	Neighborhood Commercial

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements require a Planning commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

Code requirements are found in UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

II. B-1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Future Land Use - Neighborhood Commercial. Small- to moderate scale commercial, serving primarily the adjacent neighborhood (s). May include specialty retail; community gathering businesses such as coffee shops or lower intensity entertainment; offices; studios or housing above retail (storefront retail with vertical mixed use). Typically situated in or adjacent to residential neighborhoods. May transition to neighborhood mixed use.

Governing Principle #1: Reuse previously developed lands.
Governing Principle #7: Create and maintain connectivity.

In 2013 the City vacated two portions of the public right of way on Second Street for Miner's Inc (PL 14-017 and PL 14-018).

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) This is a revised staff report. The applicant attended the April 14, 2015, PC Meeting with a proposal to vacate the entire right of way of 2nd Street between 39th and 40th Avenue West and retain an underlying utility easement for the City. The item was tabled by the Planning commission. The applicant has submitted a revised request asking for a vacation of 2nd Street, but leaving 25 feet. This would be sufficiently wide to still allow for the public to use as an alley (it would probably retain the name of West 2nd Street, however). The applicant would also issue a quit claim deed to help "straighten" the driving surface.
- 2) The portion of the right of way requesting to be vacated is currently improved. The adjacent property owner has been using a portion of the public right of way for employee parking. If the vacation request is approved, the applicant would remove the painted parallel parking stalls that are on southeast (lake side) of the right of way, running along the quonset hut.
- 3) The applicant owns the land surrounding the proposed vacation area. The applicant had initially intended on relocating the public utilities elsewhere to make room for a potential new structure in the future, but the utility relocation proved to be too costly. The applicant will leave the utilities in place and will grant the city a utility easement.
- 4) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 5) Staff believe that by keeping a portion (25 feet) of the right of way open for public use and straightening it out with the addition of a portion of the applicant's private property, the remaining right of way to be vacated right of way is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city; the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 6) The City received a phone call from a citizen concerned that if this right of way was vacated, then there may be more traffic on 38th or 39th Avenue West (a residential neighborhood just north of the Miners Warehouse). The staff from City Parks and Recreation does not believe that this right of way would be needed for future trail use.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation with the following conditions:

- 1) Utility easement be maintained for the entire right of way,
- 2) 25 feet of the right of way to remain as public right of way for public use, per exhibit dated 4-30-15,
- 3) Applicant to provide per quit claim deed for 25 feet in order to straighten out the street, as per exhibit dated 4-30-15,
- 4) Parking spaces along the quonset hut to be removed.

Vacations are approved by the City Council via a resolution. Vacations lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

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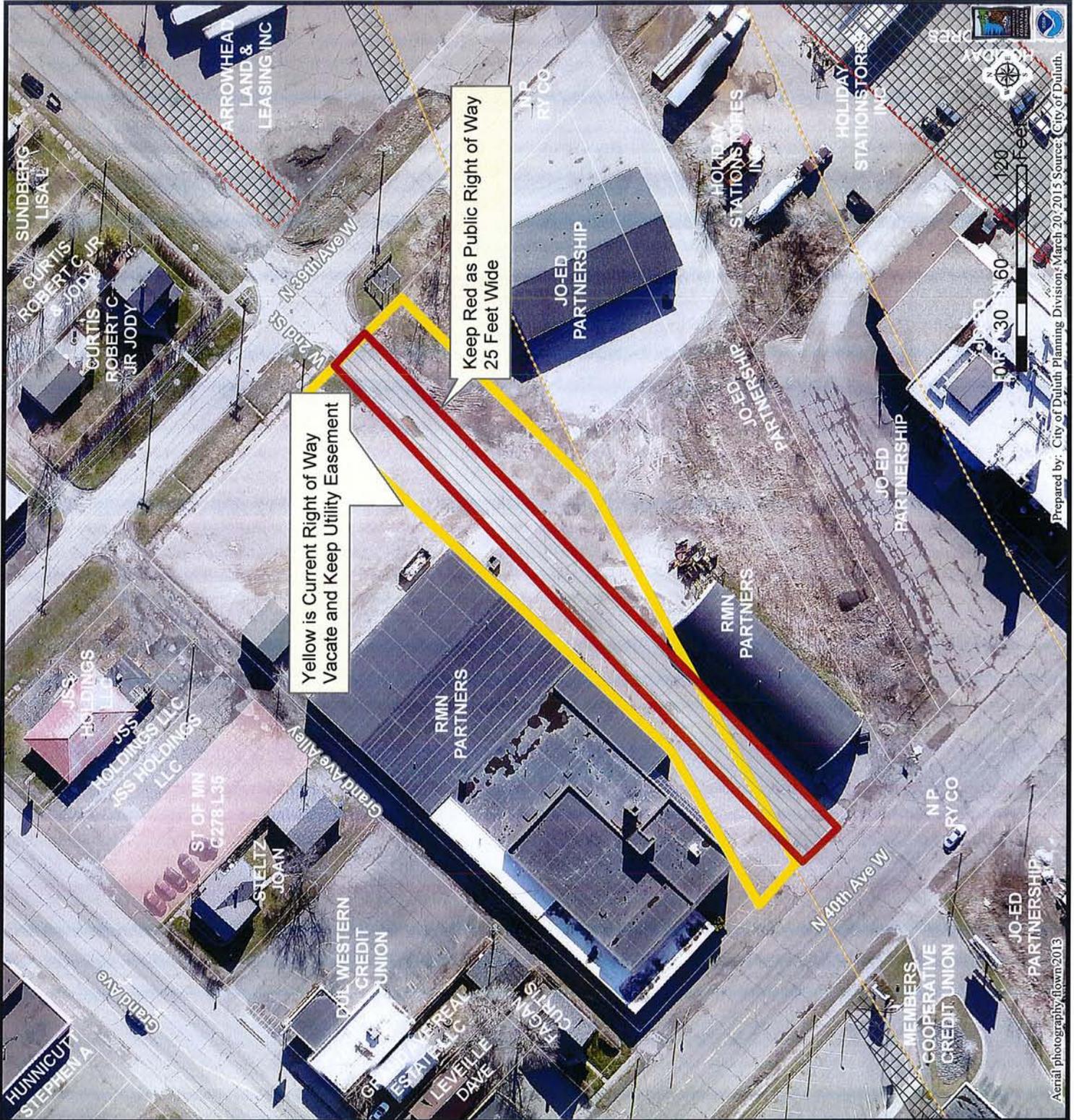
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL 15-037

W 2nd St Between 39th & 40th



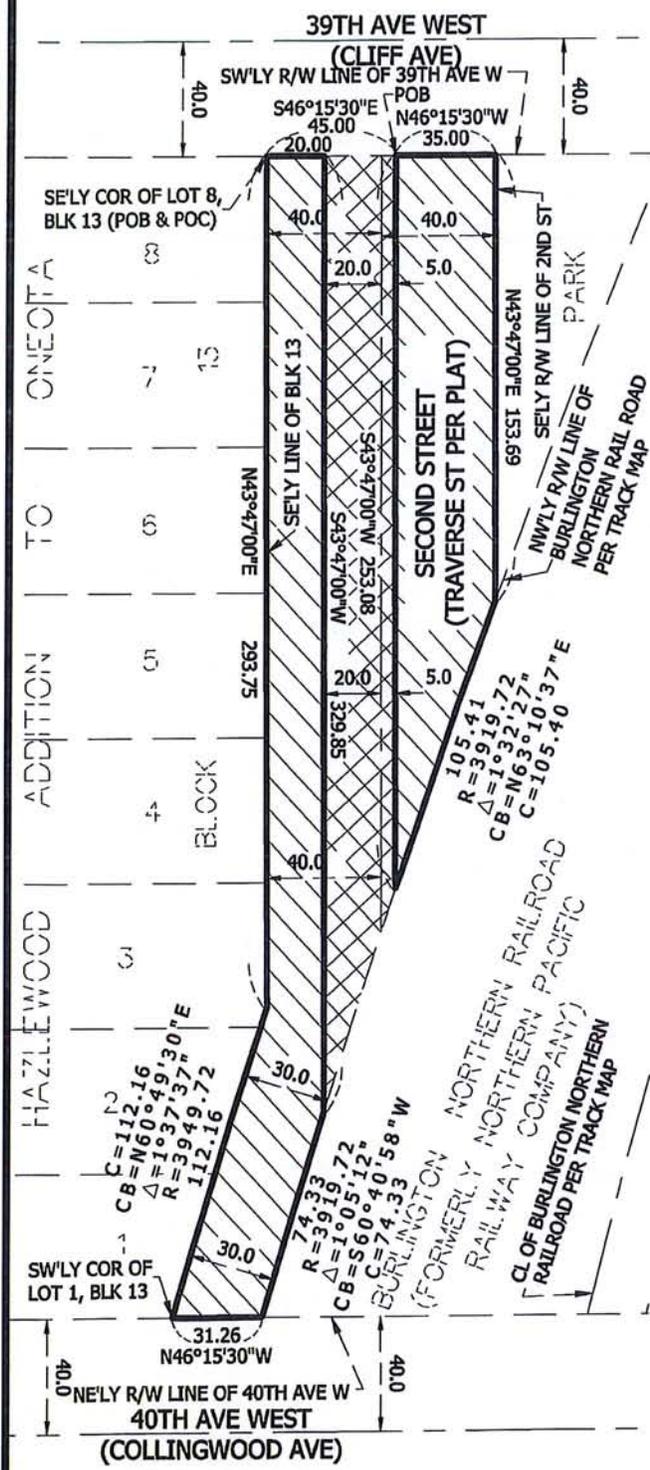
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, March 20, 2015 Source: City of Duluth.





LEGEND

- 2ND STREET TO REMAIN AS ALLEY
- 2ND STREET TO BE VACATED

POC= POINT OF COMMENCEMENT
POB= POINT OF BEGINNING

Approved by the City Engineer of the City of Duluth, MN.
this _____ day of _____ 20__

By _____

THIS IS NOT A BOUNDARY SURVEY.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Date: _____
David R. Evanson MN License No. 49505

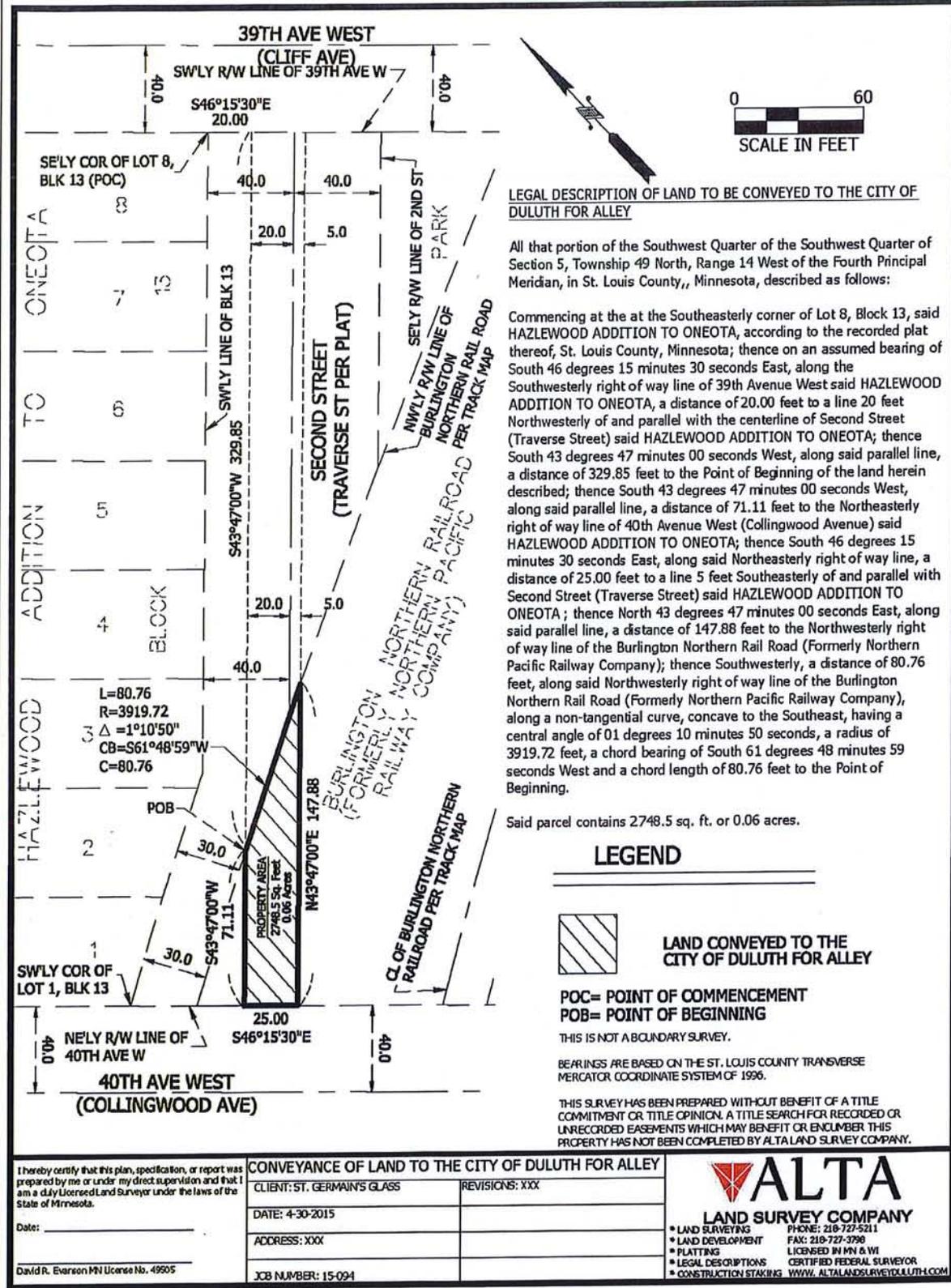
2ND ST VACATION EXHIBIT

CLIENT: ST. GERMAIN'S GLASS	REVISIONS: XXX
DATE: 4-30-2015	
ADDRESS: 203 39TH AVE W	
JOB NUMBER: 15-094	SHEET 2 OF 2 SHEETS

ALTA
LAND SURVEY COMPANY
* LAND SURVEYING PHONE: 218-727-5211
* LAND DEVELOPMENT FAX: 218-727-3798
* PLATTING LICENSED IN MN & WI
* LEGAL DESCRIPTIONS CERTIFIED FEDERAL SURVEYOR
* CONSTRUCTION STAKING WWW.ALTLANDSURVEYDULUTH.COM

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EXHIBIT A



LEGAL DESCRIPTION OF LAND TO BE CONVEYED TO THE CITY OF DULUTH FOR ALLEY

All that portion of the Southwest Quarter of the Southwest Quarter of Section 5, Township 49 North, Range 14 West of the Fourth Principal Meridian, in St. Louis County,, Minnesota, described as follows:

Commencing at the at the Southeasterly corner of Lot 8, Block 13, said HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof, St. Louis County, Minnesota; thence on an assumed bearing of South 46 degrees 15 minutes 30 seconds East, along the Southwesterly right of way line of 39th Avenue West said HAZLEWOOD ADDITION TO ONEOTA, a distance of 20.00 feet to a line 20 feet Northwesterly of and parallel with the centerline of Second Street (Traverse Street) said HAZLEWOOD ADDITION TO ONEOTA; thence South 43 degrees 47 minutes 00 seconds West, along said parallel line, a distance of 329.85 feet to the Point of Beginning of the land herein described; thence South 43 degrees 47 minutes 00 seconds West, along said parallel line, a distance of 71.11 feet to the Northeastery right of way line of 40th Avenue West (Collingwood Avenue) said HAZLEWOOD ADDITION TO ONEOTA; thence South 46 degrees 15 minutes 30 seconds East, along said Northeastery right of way line, a distance of 25.00 feet to a line 5 feet Southeastery of and parallel with Second Street (Traverse Street) said HAZLEWOOD ADDITION TO ONEOTA ; thence North 43 degrees 47 minutes 00 seconds East, along said parallel line, a distance of 147.88 feet to the Northwesterly right of way line of the Burlington Northern Rail Road (Formerly Northern Pacific Railway Company); thence Southwesterly, a distance of 80.76 feet, along said Northwesterly right of way line of the Burlington Northern Rail Road (Formerly Northern Pacific Railway Company), along a non-tangential curve, concave to the Southeast, having a central angle of 01 degrees 10 minutes 50 seconds, a radius of 3919.72 feet, a chord bearing of South 61 degrees 48 minutes 59 seconds West and a chord length of 80.76 feet to the Point of Beginning.

Said parcel contains 2748.5 sq. ft. or 0.06 acres.

LEGEND



LAND CONVEYED TO THE CITY OF DULUTH FOR ALLEY

POC= POINT OF COMMENCEMENT
POB= POINT OF BEGINNING

THIS IS NOT A BOUNDARY SURVEY.

BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCLUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Date: _____
David R. Everson MN License No. 49905

CONVEYANCE OF LAND TO THE CITY OF DULUTH FOR ALLEY	
CLIENT: ST. GERMAIN'S GLASS	REVISIONS: XXX
DATE: 4-30-2015	
ADDRESS: XXX	
JOB NUMBER: 15-094	

ALTA
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• CONSTRUCTION STAKING WWW.ALTLANDSURVEYDULUTH.COM

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LEGAL DESCRIPTION FOR 2ND STREET VACATION

All that part of Second Street (Traverse Street), HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the at the Southeasterly corner of Lot 8, Block 13, said HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof, St. Louis County, Minnesota; thence on an assumed bearing of South 46 degrees 15 minutes 30 seconds East, along the Southwesterly right of way line of 39th Avenue West said HAZLEWOOD ADDITION TO ONEOTA, a distance of 20.00 feet to a line 20 feet Northwesterly of and parallel with the centerline of Second Street (Traverse Street) said HAZLEWOOD ADDITION TO ONEOTA; thence South 43 degrees 47 minutes 00 seconds West, along said parallel line, a distance of 329.85 feet to the Northwesterly right of way line of the Burlington Northern Rail Road (Formerly Northern Pacific Railway Company); thence Southwesterly, a distance of 74.33 feet, along said Northwesterly right of way line of the Burlington Northern Rail Road (Formerly Northern Pacific Railway Company), along a non-tangential curve, concave to the Southeast, having a central angle of 01 degrees 05 minutes 12 seconds, a radius of 3919.72 feet, a chord bearing of South 60 degrees 40 minutes 58 seconds West and a chord length of 74.33 feet, to the Northeasterly right of way line of 40th Avenue West (Collingwood Avenue) said HAZLEWOOD ADDITION TO ONEOTA; thence North 46 degrees 15 minutes 30 seconds West, along said Northeasterly right of way line a distance of 31.26 feet to the Southwesterly corner of Lot 1, Block 13, said HAZLEWOOD ADDITION TO ONEOTA; thence Northeasterly, a distance of 112.16 feet, along the Southeasterly line of Block 13 said HAZLEWOOD ADDITION TO ONEOTA, along a non-tangential curve, concave to the Southeast, having a central angle of 01 degrees 37 minutes 37 seconds, a radius of 3949.72 feet, a chord bearing of North 60 degrees 49 minutes 30 seconds East and a chord length of 112.16 feet; thence North 43 degrees 47 minutes 00 seconds East, along said Southeasterly line of Block 13, a distance of 293.75 feet to the Point of Beginning.

Said parcel contains 9033.9 sq. ft. or 0.21 acres.

And:

All that part of Second Street (Traverse Street), HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the at the Southeasterly corner of Lot 8, Block 13, said HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof, St. Louis County, Minnesota; thence on an assumed bearing of South 46 degrees 15 minutes 30 seconds East, along the Southwesterly right of way line of 39th Avenue West said HAZLEWOOD ADDITION TO ONEOTA, a distance of 45.00 feet to a line 5 feet Southeasterly of and parallel with the centerline of Second Street (Traverse Street) said HAZLEWOOD ADDITION TO ONEOTA, said point being the Point of Beginning of the land herein described; thence South 43 degrees 47 minutes 00 seconds West, along said parallel line, a distance of 253.08 feet to the Northwesterly right of way line of the Burlington Northern Rail Road (Formerly Northern Pacific Railway Company); thence Northeasterly, a distance of 105.41 feet, along said Northwesterly right of way line of the Burlington Northern Rail Road (Formerly Northern Pacific Railway Company), along a non-tangential curve, concave to the Southeast, having a central angle of 01 degrees 32 minutes 27 seconds, a radius of 3919.72 feet, a chord bearing of North 63 degrees 10 minutes 37 seconds East and a chord length of 105.40 feet to the Southeasterly right of way line of Second Street (Traverse Street); thence North 43 degrees 47 minutes 00 seconds East, along said Southeast right of way line, a distance of 153.69 feet to said Southwesterly right of way line of 39th Avenue West; thence North 46 degrees 15 minutes 30 seconds West, along said Southwesterly right of way line, a distance of 35.00 feet to the Point of Beginning.

Said parcel contains 7093.5 sq. ft. or 0.16 acres.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Date:

David R. Evanson MN License No. 49505

2ND ST VACATION EXHIBIT

CLIENT: ST. GERMAIN'S GLASS	REVISIONS: XXX
DATE: 4-30-2015	
ADDRESS: 203 39TH AVE W	
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JOHNSON, KILLEN & SEILER

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STEVEN C. FECKER
ROBERT J. ZALLAR
ROBERT C. PEARSON *
JOSEPH J. ROBY, JR. * ◇
NICHOLAS OSTAPENKO *
RICHARD J. LEIGHTON * ▲
JOSEPH V. FERGUSON *
ALOK VIDYARTHI
PAUL W. WOJCIAK *
ROY J. CHRISTENSEN *
DIANA BOUSCHOR DODGE *
JESSICA L. DURBIN
MICHELE L. MILLER
PETER J. RAUKAR *
JACOB K. STONESIFER
KEVIN C. PILLSBURY
PETER A. KEMP

ATTORNEYS

A TRADITION OF TRUST

230 West Superior Street, Suite 800
Duluth, Minnesota 55802
www.duluthlaw.com
Telephone: 218-722-6331
Facsimile: 218-722-3031

May 1, 2015

JOSEPH B. JOHNSON
(1919-2000)
JOHN J. KILLEN
(1927-2013)
THOMAS A. CLURE
(1938-2010)

* ALSO MEMBER OF WISCONSIN BAR
▲ ALSO MEMBER OF NORTH DAKOTA BAR
† MINNESOTA STATE BAR ASSOCIATION
CERTIFIED CIVIL TRIAL LAW SPECIALIST
◇ MINNESOTA STATE BAR ASSOCIATION
CERTIFIED LABOR AND EMPLOYMENT LAW
SPECIALIST

WRITER'S E-MAIL ADDRESS:
rchristensen@duluthlaw.com

Steven Robertson, Senior Planner
City of Duluth, Planning Division
411 W 1st Street, Room 208
Duluth, MN 55802
srobertson@DuluthMN.gov

Re: RMN, LLLP
Our File 16350.028

Dear Steven:

On behalf of our firm's client, RMN, LLLP, we are respectfully amending RMN's requested street vacation petition and materials, previously submitted to your office on March 2, 2015, in advance of the Planning and Zoning Commissions May 12 meeting, at which time the Commission will again review the petition.

This letter confirms that RMN agrees to amend its petition to request that Second Street, between 39th and 40th Avenues West, be vacated to the extent that a 25 foot wide public alley will be the remaining public way following the vacation. Stated another way, Second Street will be vacated, but a 25 foot wide public alley will take its place.

As we have discussed, to accomplish the end state described above, RMN will agree to quit claim deed to the City a portion of land owned by RMN, to create a sufficiently wide City owned area for the 25 foot alley to pass through. Thus, enclosed for your use and review, please find the following:

1. Quit Claim Deed from RMN to the City containing Certificate of Survey and legal description drafted by Alta Survey showing land to be conveyed to the City;
2. New, amended Street Vacation Exhibit indicating the portions of the City owned land to be vacated (after the conveyance of land by RMN to the City described above) and the 25 foot City alley to remain.

By this letter, we confirm the City Administration's pledge of support for this compromise solution, which will result in a safer public way in this area, and will also "clean up" the decades-old encroachments of the St. Germaine's building and parking areas in the area. We anticipate

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JOHNSON, KILLEN & SEILER, P.A.

Mr. Robertson
May 1, 2015
Page 2

that approval of this compromise partial vacation will result in greater economic activity in this area, and improve the motor vehicle safety standards in the area.

If you require anything further from RMN in advance of the May 12 meeting, please let me know at your early convenience.

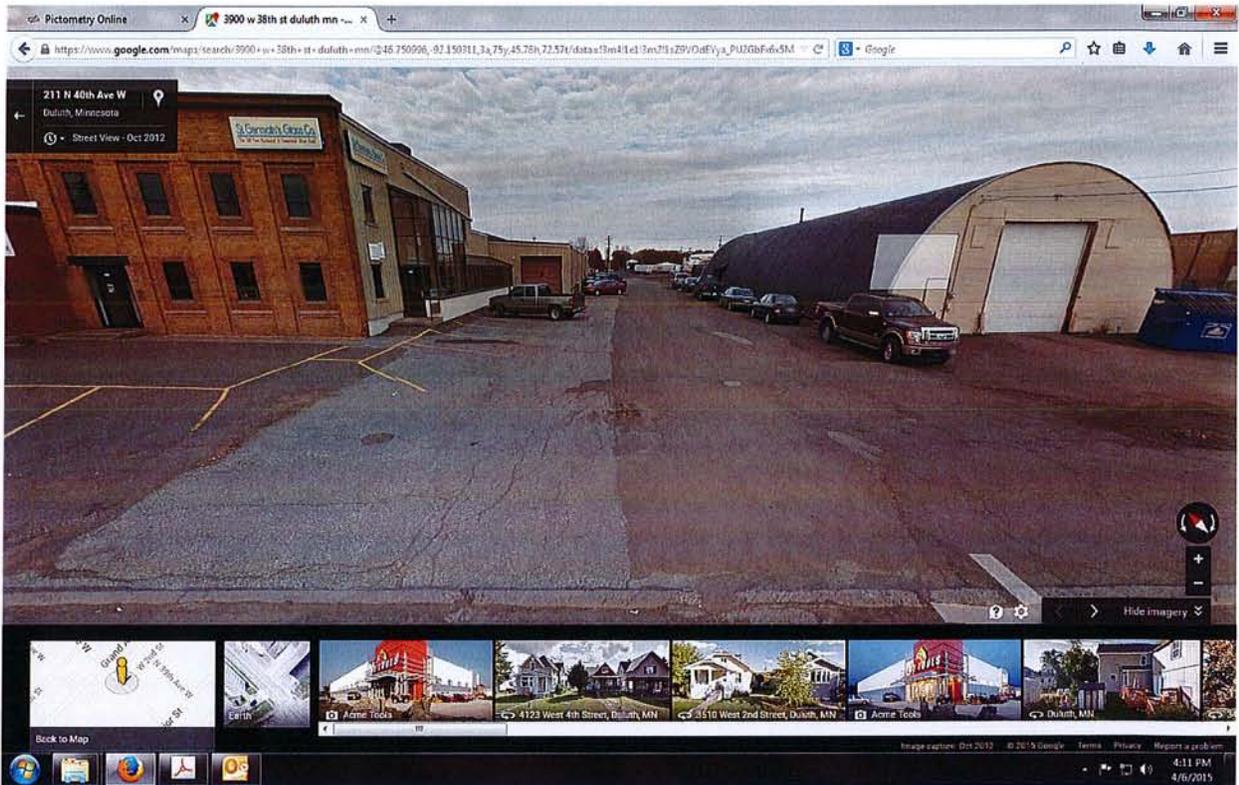
Yours very truly,



Roy J. Christensen

RJC/clg Enc.

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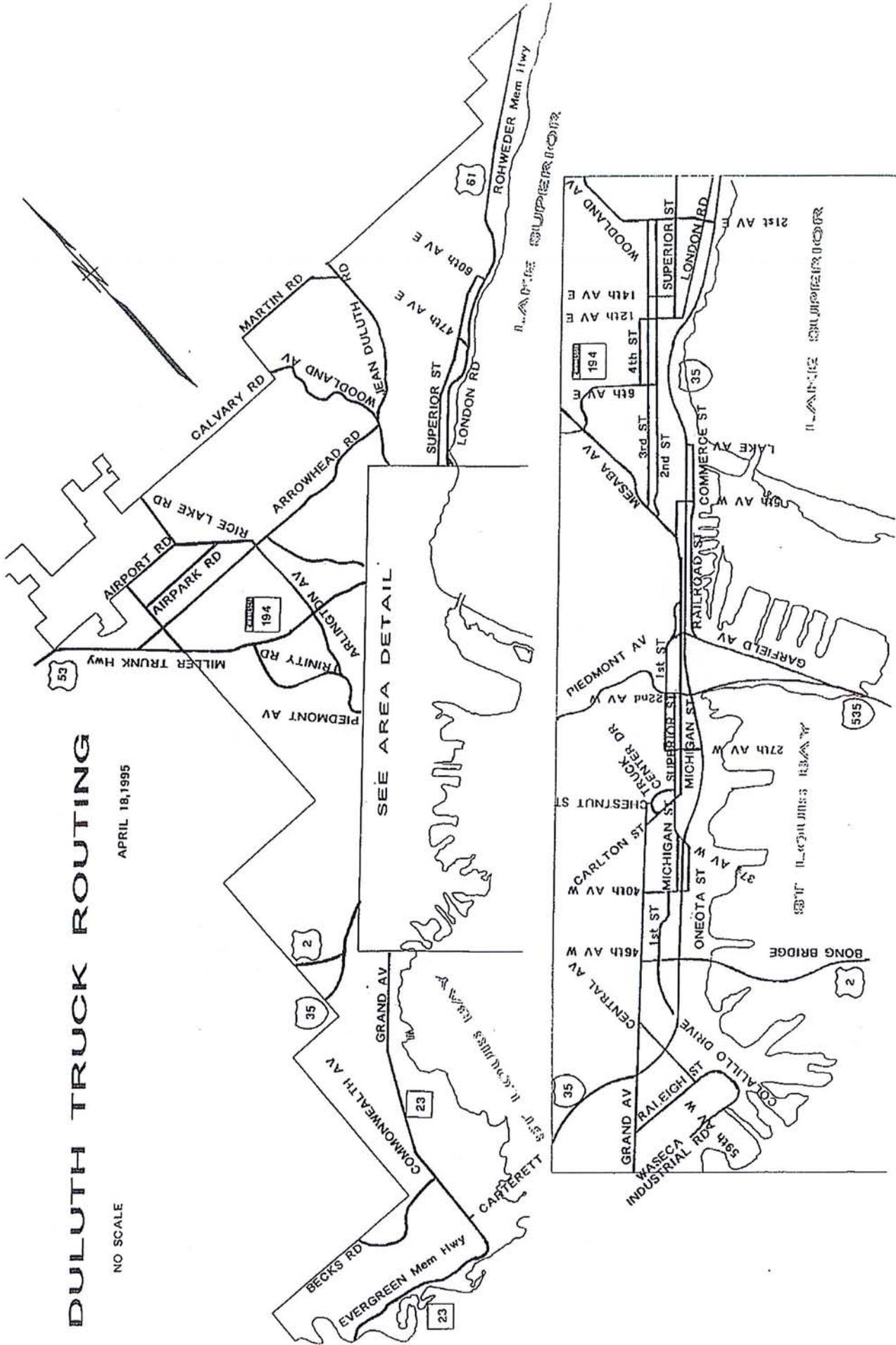


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DULUTH TRUCK ROUTING

NO SCALE

APRIL 18, 1995



B-13

DULUTH TRUCK ROUTE SYSTEM

<u>ROADWAY</u>	<u>FROM</u>	<u>TO</u>
I-35	Boundary Av (City Limits)	26th Av E
T.H. 2	Boundary Av (City Limits)	I-35
Evergreen Mem Hwy (T.H. 23)	City Limits	Commonwealth Av
Commonwealth Av (T.H. 23)	Evergreen Memorial Hwy	Grand Av
Grand Av (T.H. 23)	Commonwealth Av	Carlton St
Grand Av	Carlton St	Chestnut St
Becks Rd	City Limits	Commonwealth Av
Carterett St	Commonwealth Av	99th Av W
Raleigh St	Grand Av	Central Av
59th Av W	Raleigh St	Waseca St
Colalillo Drive	Ramsey St	46th Av W
Central Av	Raleigh St	Grand Av
46th Av W	Grand Av	I-35
Bong Bridge	I-35	City Limits
40th Av W	Grand Av	Oneota St
Oneota St	40th Av W	37-1/2 Av W
Jenswold St	Michigan St	Superior St
Carlton St (T.H. 23)	Grand Av	Michigan St
Truck Center Dr	Carlton St	30-1/2 Av W
30-1/2 Av W	Superior St	Truck Center Dr
Chestnut St	Truck Center Dr	3rd St
Superior St	Jenswold St	22nd Av W
Michigan St	40th Av W	Jenswold St
Michigan St (T.H. 23)	Carlton St	Superior St
27th Av W	I-35	Superior St
First St (T.H. 23)	27th Av W	Piedmont Av
Waseca St	59th Av W	61st Av W
37-1/2 Av W	Michigan St	Oneota St
Piedmont Av (T.H. 23)	First St	Superior St
22nd Av W	First St	Michigan St
Superior St (T.H. 23)	Piedmont Av	5th Av W
I-535	I-35	City Limits
Garfield Av	Superior St	I-535
Railroad St	Garfield Av	5th Av W
Commerce St	5th Av W	Lake Av
5th Av W	Superior St	Commerce St
Mesaba Av	I-35	Central Entrance
1st St	46th Av W	40th Av W
Lake Av	I-35	Commerce St
Superior St	12th Av E	21st Av E
Superior St (T.H. 23)	21st Av E	60th Av E
2nd St (T.H. 23 & 61)	Mesaba Av	12th Av E
2nd St (T.H. 23)	12th Av E	21st Av E
3rd St (T.H. 23 & 61)	Mesaba Av	14th Av E
3rd St (T.H. 23)	14th Av E	21st Av E
4th St	6th Av E	12th Av E
London Rd (T.H. 61)	12th Av E	Rohweder Mem Hwy (T.H. 61)
Rohweder Mem Hwy (T.H. 61)	London Rd	City Limits
12th Av E (T.H. 61)	4th St	London Rd
14th Av E (T.H. 61)	3rd St	London Rd
21st Av E	Woodland Av	3rd St
21st Av E (T.H. 23)	3rd St	Superior St
21st Av E	Superior St	I-35
6th Av E (T.H. 194)	Mesaba Av	2nd St
Woodland Av	21 Av E	Calvary Rd
Snively Rd	Woodland Av	Glenwood St
Jean Duluth Rd	Glenwood St	City Limits
47th Av E	Superior St	London Rd
60th Av E (T.H. 23)	Superior St	London Rd
Martin Rd	Jean Duluth Rd	Arnold Rd (City Limits)
Calvary Rd	Woodland Av	Arnold Rd (City Limits)
Arrowhead Rd	Woodland Av	Haines Rd (City Limits)
Rice Lake Rd	Hesaba Av	Arrowhead Rd
Rice Lake Rd	Arrowhead Rd	Ridge View Rd (City Limits)
Airpark Blvd	Rice Lake Rd	Haines Rd
Airport Rd	Rice Lake Rd	Haines Rd
Haines Rd	T.H. 53	Airport Rd
Miller Trunk Hwy (T.H. 53)	Haines Rd (City Limits)	Trinity Rd
Trinity Rd (T.H. 53)	Central Entrance	
	(Miller Trunk Hwy)	Piedmont Av
Piedmont Av (T.H. 53)	Trinity Rd	I-35
Central Ent (T.H. 194)	Trinity Rd	Mesaba Av
Arlington Av	Trinity Rd	Central Entrance
21st Av W	Michigan St	T.H. 53- I-35 Ramps

ALTERNATIVE TRUCK ROUTES

(From November 1 to April 1, to be used only at such times between those dates when snow and ice conditions have made it impossible or unsafe for trucks to use the regular truck routes:

Wallace Av	Woodland Av	E 4th St
Fourth St	Wallace Av	24th Av E
24th Av E	4th St	Superior St
Glenwood St	Snively Rd	60th Av E
60th Av E	Glenwood St	Superior St

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